

CRIMINAL

Limited Jurisdiction

Q. What have I been charged with?

A. Court personnel may show the defendant the public record file if it is not confidential or sealed.

Q. My relative got arrested. Who do I talk to?

A. If the defendant has an attorney, the relative may contact the defendant's attorney. Court personnel may provide public information, such as upcoming court dates and how to post bond. In some cases, the arresting agency can provide terms of release or other information and may be able to accept bond.

Q. How do I post bond?

A. Procedures vary. Contact the local court or jail for locations and hours for posting bond. Some courts or agencies accept cash, money orders, bank checks (cashier's checks), personal checks, MasterCard, Visa or other major credit cards. Some agencies will only accept the exact amount of cash or a money order. Call first.

Q. I do not have the money to post bond. How can I find a bail bond agency?

A. Some courts provide lists of bonding companies. Bonding companies may also be found online or in the phone book.

Q. I posted bond for someone. How and when can I get my money back?

A. The bond will be exonerated (released) after the conclusion of the case or when ordered by the court. The court must have a current mailing address to return money, which usually occurs within a few days of the exonerated order.

Q. What happens at the arraignment?

A. The process may vary depending on the court. The accused may be advised of his/her rights, charges and consequences of convictions and asked to enter a plea of guilty, not guilty or no contest. In some courts the judicial officer may enter a not guilty plea on behalf of the accused and remind the accused of the need to attend all hearings.

Q. What happens after I enter a plea at arraignment?

A. Once a defendant has decided upon his/her plea a defendant must enter a plea with the judicial officer at his/her arraignment. Unless the case involves a "victim" who has asked to be present, no witnesses will be present at arraignment and no testimony will be taken. At an arraignment, the judicial officer will not grant a defendant's request to dismiss any charges. The defendant enters a plea to the charge(s) against him/her.

- If a plea of guilty or no contest is entered, the defendant may be sentenced immediately following the judicial officer's acceptance of his/her plea or he/she may be sentenced at a later date.

- If a plea of "not guilty" is entered, a pre-trial disposition conference will be scheduled followed by a trial setting. The defendant must decide, if he/she has not already done so, whether to employ an attorney to represent him/her.
- A defendant may be represented only by him/herself or an Arizona licensed attorney. In some circumstances, a court-appointed attorney may be provided for the defendant.

Q. What happens at a pre-trial conference?

A. A defendant or the defendant's attorney will be given an opportunity to meet with a prosecutor to review the facts supporting the State's criminal charges against him/her. At the pre-trial conference, a defendant is entitled to review a copy of the complaint(s), any written police reports or any other evidence that the State intends to use at the trial. Witnesses do not attend the pre-trial disposition conference and no testimony is taken. However, victims do have the right to be present if they request to do so.

- A defendant has three options at the pre-trial conference:
 - (a) Change his/her plea to guilty and accept the prosecutor's settlement offer, which contains the recommended sentence he/she will receive upon acceptance by the judicial officer;
 - (b) Reject the prosecutor's offer and change his/her plea of not guilty to a guilty or no contest plea and accept the sentence determined by the judicial officer;
 - (c) Maintain his/her plea of not guilty and have the case set for a trial date.

Q. What is the procedure for entering a plea to a criminal charge?

A. There are four possible pleas to a criminal charge:

- **Plea of Not Guilty** - The defendant denies guilt and the State must prove the criminal charge(s) against him/her. The State is represented by the city or county prosecutor's office.
- **Plea of Guilty** - The defendant admits that he/she committed the act(s) charged in the complaint, that the acts are prohibited by law and that he/she has no legal defense for such acts.
- **Plea of No Contest** - This plea, also known as *nolo contendere*, means the defendant is not admitting guilt and not denying it. The defendant is saying that he/she does not wish to contest the State's charge(s). Upon a plea of no contest, the judicial officer may find the defendant guilty and enter a judgment of guilt.
- **Alford Plea** – The defendant may enter an "Alford" plea, where the Defendant does not admit guilt. A defendant may plead guilty (or no contest) without admitting guilt, or while even asserting innocence, if the Defendant believes that the plea is in their best interest and the record strongly evidences guilt. *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 180 (1970). Must make a finding: 'In the interest of justice.'

Q. Can I reschedule (continue) my hearing to a later date?

A. Only the judicial officer can continue a hearing. A party may file a written request with the clerk and provide a copy of the request to the other parties (or the prosecuting attorney in a criminal case) for the judicial officer to consider the request.

Q. Can I plead by telephone?

A. If authorized by the court and the case is a misdemeanor, a telephonic plea may be available provided the defendant is an out of state resident or resides more than 100 miles from the court.

Q. Can you appoint an attorney for me?

A. Only a judicial officer can appoint an attorney, and only in certain cases. An attorney is appointed only if mandatory jail time is required or may be imposed or if serious consequences may result from a conviction. If a defendant cannot afford an attorney and wishes representation, an application may be filled out requesting that an attorney be appointed to represent him/her. An examination of the defendant's financial status will be made to determine if he/she is entitled to a court-appointed attorney. If eligible, the defendant may be ordered to pay a portion of the attorney's cost.

Q. What is a public defender?

A. A public defender is an attorney who represents a person who is accused of a crime who cannot afford to hire an attorney. Some counties have public defender offices that have a number of attorneys on staff. Some counties may contract with private attorneys to provide services to the accused who cannot afford to hire an attorney.

Q. Will the county attorney represent me?

A. The county attorney and other prosecutorial agencies usually represent the State and its municipalities in criminal cases. For more information, the party may contact the county attorney or prosecuting agency.

Q. What happens at a trial on criminal charges/complaints?

A. Depending on the alleged offense, a defendant may be entitled to a trial by jury. The defendant is entitled to hear all testimony introduced against him/her. A defendant has the right to cross-examine any witness who testifies against him/her, to testify on his/her own behalf and a Constitutional right not to testify. If he/she chooses not to testify, a refusal cannot and will not be used against him/her in determining his/her guilt or innocence. However, if a defendant chooses to testify, the prosecutor will have the right to cross-examine him/her. A defendant may call witnesses to testify on his/her behalf and has the right to have the court issue subpoenas for witnesses to ensure appearance at the trial.

Q. What sentence will I get if I plead guilty or am found guilty at trial?

A. The judicial officer imposes the sentence. Court personnel cannot guess, as different facts and law may apply to each case. However, certain offenses have mandatory sentences, meaning a judicial officer cannot order a lesser sentence than

is required. Other offenses allow a judicial officer to use discretion to determine the appropriate sentence. If a charge has a mandatory sentence, the judicial officer will inform the defendant of that during the sentencing proceeding.

Q. When do I have to pay my fine?

A. The terms and schedule for paying fines and other obligations are set by the judicial officer at the time of sentencing.

Q. How do I get unsupervised probation?

A. Probation is determined by the judicial officer. The defendant would in most cases be represented by counsel who could make the request to the court on behalf of the defendant. If the defendant is representing himself/herself, the defendant could request that the court impose unsupervised probation at the time of sentencing. The final decision is up to the judicial officer.

Q. How do I clear my record and get my rights restored?

A. A first-time offender, convicted of a single felony count, does not need to petition the court for restoration of civil rights. Civil rights are automatically restored upon successful completion of all aspects of sentencing, including payment of all court ordered fines, fees and restitution. The right to possess firearms requires petitioning the sentencing court. The judicial officer will determine whether or not to grant the request. If the party served time in prison, two years must have passed since the date of absolute discharge before becoming able to file for restoration of civil rights. To restore civil rights, the party may apply to the sentencing court to vacate the judgment of guilt, dismiss charges and/or restore civil rights in Arizona.

Q. What is a warrant?

A. A warrant is an order from the court to law enforcement to take someone or something into custody. Some warrant information is forwarded to law enforcement agencies throughout Arizona. For example, the court may order a bench warrant for law enforcement to arrest someone who failed to appear in court, or the court may issue a search warrant for law enforcement to seize and remove property from a person, place, or thing.

Q. What are the different warrants?

A. There are several different times in criminal cases when warrants may be issued by the court: at the beginning of a case, during a case if a defendant fails to appear or after sentencing when a defendant fails to comply with a court order. Criminal arrest warrants may be issued when there is reasonable cause to suspect an individual of a misdemeanor or felony crime. Arrests result in being held in jail until a bond is paid or until the defendant is brought to court from the jail to see a judicial officer. The judicial officer will decide if bond is continued or if the defendant can be released on his/her own recognizance, meaning the defendant remains personally responsible for appearing, but is not required to post a bond. When a person fails to appear for a scheduled court date, a warrant is issued. The defendant may be arrested and may be required to post a bond and another court date will be set. If a defendant knows

ahead of time that he/she cannot attend court at the scheduled time, the defendant may request a continuance. The defendant must appear unless the continuance is granted by a judicial officer. If a person misses a court date, the defendant may contact his/her attorney, if one has been appointed or retained, or appear as soon as possible in court to ask the judicial officer to quash (end) the warrant and to reset the court date. The judicial officer decides whether to require bond. A warrant may be issued if a person placed on probation violated his/her probation, or if the defendant failed to comply with any other order the court imposed at sentencing.

Q. What victim services are available?

A. Victim services are available through the local county attorney's office. A victim advocate can explain the judicial system, act as a link between the prosecutor and the victim, give current case status information, assist in obtaining orders of protection, make referrals for counseling, food, shelter, etc. and escort victims while they testify or appear at hearings.